

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v. CRIMINAL NO. 04-36 ERIE

JEFFREY SCOTT ARTELLO

CHANGE OF PLEA

Proceedings held before the HONORABLE  
SEAN J. McLAUGHLIN, U.S. District Judge,  
in Courtroom C, U.S. Courthouse, Erie,  
Pennsylvania, on Thursday, February 10, 2005.

APPEARANCES:

CHRISTIAN A. TRABOLD, Assistant United States  
Attorney, appearing on behalf of the Government.

THOMAS W. PATTON, Assistant Federal Public  
Defender, appearing on behalf of the Defendant.

Ronald J. Bench, RMR - Official Court Reporter

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1 PROCEEDINGS

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3 (Whereupon, the proceedings began at 9:05 a.m., on  
4 Thursday, February 10, 2005, in Courtroom C.)

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6 THE COURT: Mr. Artello, I'm informed that you wish  
7 to change the plea that you previously entered at Counts One  
8 and Five at Criminal No. 04-36 to a plea of guilty, is that  
9 right?

10 THE DEFENDANT: Yes, judge.

11 THE COURT: Before accepting your guilty plea, there  
12 are a number of questions that I will ask you to make certain  
13 it is a valid plea. If you do not understand any question,

14 please tell me and I will explain it to you. If at anytime you  
15 wish to consult with Mr. Patton, please tell me that and I will  
16 give you the opportunity to consult with him. I give you these  
17 instructions because it is essential to a valid plea that you  
18 understand every question before you answer. Would you please  
19 raise your right hand.

20 (Whereupon, the Defendant, JEFFREY SCOTT ARTELLO,  
21 was sworn.)

22 THE COURT: Do you understand that now you have been  
23 sworn, your answers to my questions are subject to the  
24 penalties of perjury or of making a false statement if you do  
25 not answer truthfully?

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1 THE DEFENDANT: Yes.

2 THE COURT: Would you please state your full name?

3 THE DEFENDANT: Jeffrey Scott Artello.

4 THE COURT: How old are you?

5 THE DEFENDANT: Fifty-two.

6 THE COURT: How far did you go in school?

7 THE DEFENDANT: High school graduate.

8 THE COURT: Are you able to communicate in English?

9 THE DEFENDANT: Yes.

10 THE COURT: Is that accurate, Mr. Patton.

11 MR. PATTON: Yes, sir.

12 THE COURT: Have you taken any drugs or medication  
13 or have you drunk any alcoholic beverages in the past 24 hours?

14 THE DEFENDANT: No, sir.

15 THE COURT: Are you now or have you recently been  
16 under the care of a physician or a psychiatrist?

17 THE DEFENDANT: No, sir.

18 THE COURT: Are you now or have you recently been  
19 hospitalized or treated for narcotic addiction?

20 THE DEFENDANT: No.

21 THE COURT: Do you understand what's happening  
22 today?

23 THE DEFENDANT: Yes.

24 THE COURT: Does either counsel have any doubt about  
25 the competence of this defendant to plead guilty at this time

1 to the charges contained in the Indictment; Mr. Patton?

2 MR. PATTON: No, sir.

3 THE COURT: Mr. Trabold?

4 MR. TRABOLD: No, your Honor.

5 THE COURT: Do you have an attorney with you here  
6 today?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: What is his name?

9 THE DEFENDANT: Mr. Tom Patton beside me.

10 THE COURT: Have you had a sufficient opportunity to  
11 discuss your case with him?

12 THE DEFENDANT: Yes, I have.

13 THE COURT: Are you satisfied with the work that  
14 he's done for you?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand that if you continue  
17 to plead not guilty and do not change your plea, you would have  
18 the right to be assisted by an attorney at the trial of the  
19 charge against you?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand that if you did not  
22 enter a guilty plea and if you qualified financially, you would  
23 be entitled to be assisted by an attorney at no cost to you at

24 every phase of the processing of these charges against you?

25 THE DEFENDANT: Yes.

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1 THE COURT: Do you understand that if you did not  
2 plead guilty and if there were a trial, under the Constitution  
3 and laws of the United States, you would be entitled to a  
4 speedy trial by a judge and jury on the charge contained in the  
5 Indictment?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand that if there were a  
8 trial, you would be presumed to be innocent at the trial of the  
9 charge against you?

10 THE DEFENDANT: Yes.

11 THE COURT: And do you understand that if there were  
12 a trial, the government would be required to prove your guilt  
13 by competent evidence and beyond a reasonable doubt before you  
14 could be found to be guilty?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand that if there were a  
17 trial, you would not have to prove that you were innocent?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand that if there were a  
20 trial, the jury would have to be unanimous in order to find you  
21 guilty of the charge?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you understand that if there were a  
24 trial, you would have the right to participate in the selection  
25 of the jury; that you would have the right to strike or

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1 eliminate any prospective juror if it was demonstrated that the  
2 juror would be unable to render a fair and impartial verdict;  
3 and that you would have the right to strike or eliminate ten  
4 jurors from the jury, and one alternate juror, without giving  
5 any reason at all for so doing?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand that if there were a  
8 trial, the witnesses for the government would have to come to  
9 court and testify in your presence?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you understand that if there were a

12 trial, your counsel could cross-examine the witnesses for the  
13 government, object to evidence offered by the government and  
14 then offer evidence on your behalf?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand that if there were a  
17 trial, the government would have to pay witness fees to  
18 witnesses which you wished to call on your behalf, if you  
19 qualified as being financially unable to do so?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand that if there were a  
22 trial, you would have the right to testify in you chose to?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand that if there were a  
25 trial, you would have the right not to testify and that no

1 inference or suggestion of guilt could be drawn from the fact  
2 that you did not testify?

3 THE DEFENDANT: Yes.

4 THE COURT: If you plead guilty and I accept your  
5 plea, do you understand that you will waive your right to a



6 trial and the other rights which I have mentioned to you, that  
7 there will be no trial, and that I will enter a judgment of  
8 guilt and sentence you on the basis of your guilty plea after  
9 considering a presentence report?

10 THE DEFENDANT: Yes.

11 THE COURT: If you plead guilty, do you also  
12 understand that you'll also have to waive your right not to  
13 incriminate yourself, because I will ask you questions about  
14 what you did in order to satisfy myself that you are guilty as  
15 charged and you will have to acknowledge your guilt?

16 THE DEFENDANT: Yes.

17 THE COURT: Now that I have mentioned your rights to  
18 you, do you still want to plead guilty?

19 THE DEFENDANT: Yes.

20 THE COURT: Have you received a copy of the  
21 Indictment naming you and have you discussed with your counsel  
22 the charges in the Indictment to which you intend to plead  
23 guilty today?

24 THE DEFENDANT: Yes, I have.

25 THE COURT: It's Counts One and Five, is that right?

1 MR. PATTON: That's correct, your Honor.

2 THE COURT: Do you understand that you are charged  
3 in Count One as follows: "From in and around May 1998, to in  
4 and around August 2003, in the Western District of Pennsylvania  
5 and elsewhere, the defendants, Maurice Francis Foley, also  
6 known as Maurice Hoover, also known as Clarence Lee Oday, II,  
7 also known as Luke; John Kirkpatrick, also known as Hatrack;  
8 Jeffrey Scott Artello, also known as Fat Man, also known as  
9 Tattoo; Eric Thomas Dunn, also known as Sheister; Ann Marie  
10 Weber; Paul Andrew Bole; Paul Anthony Butler, also known as  
11 Coin Flipper; and Michael Patrick Foley, II, also known as Cuz,  
12 did knowingly, intentionally and unlawfully conspire with each  
13 other and others whose identities are both known and unknown to  
14 the grand jury, to distribute and possess with intent to  
15 distribute 100 kilograms or more of a mixture and substance  
16 containing a detectable amount of marijuana, a Schedule I  
17 controlled substance, and 100 or more marijuana plants,  
18 contrary to the provisions of Title 21, United States Code,  
19 Sections 841(a)(1), and 841(1)(b)(VII). All in violation of  
20 Title 21, United States Code, Section 846."

21 Do you understand that charge?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: Do you understand that as to Count One

24 in order for the crime of conspiracy to distribute and possess

25 with intent to distribute 100 kilograms or more of a mixture

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1 and substance containing a detectable amount of marijuana, the

2 government must prove all of the following essential elements

3 beyond a reasonable doubt.

4 That two or more persons came to a mutual

5 understanding or agreement to try to accomplish a common and

6 unlawful plan to distribute and/or possess with intent to

7 distribute the controlled substance charged in the Indictment.

8 That the defendant knowingly and willfully became a

9 member of the conspiracy.

10 That marijuana is a Schedule I controlled substance.

11 And that the conspiracy had the specific unlawful

12 purpose of distributing and/or possessing with intent to

13 distribute 100 kilograms or more of a mixture and substance

14 containing a detectable amount of marijuana.

15 Do you understand the elements as to Count One?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you understand that the maximum  
18 penalty for a violation of Count One is a term of imprisonment  
19 of not less than five years to a maximum of 40 years.

20 A fine not to exceed \$2 million.

21 A term of supervised release of at least four years.

22 For a second or subsequent felony drug conviction  
23 that is final, whether federal, state or foreign; a term of  
24 imprisonment of not less than 10 years to a maximum of life.

25 A fine not to exceed \$4 million.

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1 A term of supervised release of at least eight  
2 years.

3 As well as a mandatory special assessment of \$100.

4 Do you understand the maximum penalty for a  
5 violation of Count One?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand that you are charged  
8 in Count Five of the Indictment as follows. "In and around

9 August 2003, in the Western District of Pennsylvania, the  
10 defendant, Jeffrey Scott Artello, also known as Fat Man, also  
11 known as Tattoo, after having been convicted on or about June  
12 10, 1981, at Docket Number 1828 of 1980, in the Court of Common  
13 Pleas, County of Erie, Criminal Division, Commonwealth of  
14 Pennsylvania, of the crime of terroristic threats, which is a  
15 crime punishable by imprisonment for a term exceeding one year,  
16 did knowingly possess in and effecting interstate commerce a  
17 firearm as defined in Title 18, United States Code, Section  
18 921(a)(3); specifically, a Marlin .22 caliber rifle, Model 25,  
19 a Savage .30-30 caliber rifle, Model 340, and a Remington  
20 .30-06 caliber rifle, Model 760.

21 In violation of Title 18, United States Code,  
22 Section 922(g)(1)."

23 Do you understand that charge?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you understand that in order for the

1 crime of possessing a firearm by a convicted felon to be  
2 proven, the government must prove all of the following

3 essential elements beyond a reasonable doubt.

4 That the defendant was convicted of a crime  
5 punishable by imprisonment for a term exceeding one year.

6 That the defendant thereafter knowingly possessed a  
7 firearm.

8 And that said firearm was possessed in or effecting  
9 interstate commerce.

10 Do you understand the elements as to Count Five?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you understand that the maximum  
13 penalty for Count Five is a term of imprisonment of not more  
14 than 10 years. However, if it is determined that the defendant  
15 has three previous convictions for a violent felony or a  
16 serious drug offense, or both, then pursuant to 18 U.S.C.  
17 Section 924(e), the term of imprisonment is not less than 15  
18 years to a maximum of life.

19 A fine of not more than \$250,000.

20 A term of supervised release of three years.

21 As well as a mandatory special assessment of \$100.

22 Do you understand the maximum penalty for a  
23 violation of Count Five?

24 THE DEFENDANT: Yes.

25 THE COURT: Has anybody made any threat to you or to

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1 anyone else that has caused you to plead guilty today?

2 THE DEFENDANT: No.

3 THE COURT: Has there been a plea agreement?

4 MR. TRABOLD: There is not a plea agreement, your  
5 Honor.

6 THE COURT: All right.

7 MR. TRABOLD: Your Honor, the only thing I want to  
8 mention, there is no plea agreement. However, the government  
9 is not, just so you're aware and I'm putting on the record, is  
10 not going to seek a forfeiture of Mr. Artello's property, which  
11 would be 11440 State Road, Elk Creek Township, in Erie County,  
12 Pennsylvania, Assessor's parcel No. 121-47-5.513. Just so the  
13 court's aware, I'll put on the record the reason we are  
14 foregoing forfeiture of Mr. Artello's property is it's not in  
15 the government's financial interests to do so, I believe it  
16 probably would cost the government more to forfeit the property  
17 than the property is ultimately worth.

18 THE COURT: All right. Do you understand that the

19 offense to which you are pleading guilty today is a felony  
20 offense and that if your plea is accepted, you will be adjudged  
21 guilty of that offense and that such adjudication may deprive  
22 you of valuable civil rights; such as the right to vote, hold  
23 public office, serve on a jury, or possess any type of firearm?

24 THE DEFENDANT: Yes.

25 THE COURT: Under the Sentencing Reform Act of 1984,

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1 the United States Sentencing Commission has issued guidelines  
2 for judges to follow in determining sentences in criminal cases  
3 for offenses occurring after November 1st of 1987. Have you  
4 and Mr. Patton talked about how the Sentencing Guidelines might  
5 apply to your case, and the fact that the guideline ranges are  
6 now advisory by virtue of two recent Supreme Court decisions?

7 THE DEFENDANT: Yes, we've discussed that.

8 THE COURT: And do you understand that the court  
9 will not be able to determine the advisory guideline sentence  
10 for your case until after the presentence report has been  
11 completed, you and the government have had an opportunity to  
12 challenge the facts that are reported by the probation officer?



13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand that after it has been  
15 determined what guideline sentence applies to a case, the judge  
16 does have the authority in some circumstances to impose a  
17 sentence that is more severe or less severe than that called  
18 for by the advisory guideline range?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you understand that under certain  
21 circumstances you or the government may have the right to  
22 appeal any sentence that I impose?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand that parole has been  
25 abolished, and that if you are sentenced to a term of

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1 imprisonment, you will not be released on parole?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you understand that if the sentence  
4 is more severe than you expected it to be, you will still be  
5 bound by your guilty plea and that you will have no right to  
6 withdraw it?

7 THE DEFENDANT: Yes.

8 THE COURT: Except for your discussions with Mr.

9 Patton about the Sentencing Guidelines, has anybody made any  
10 prediction or promise to you about what your sentence will be?

11 THE DEFENDANT: No, sir.

12 THE COURT: Has anything I've said here today  
13 suggested to what your actual sentence will be?

14 THE DEFENDANT: No.

15 THE COURT: Have you been instructed by your  
16 counsel, by government counsel, or by anybody else to respond  
17 untruthfully to any question about a promised sentence?

18 THE DEFENDANT: No.

19 THE COURT: Did you, as charged in Counts One and  
20 Five and as previously read to you by me, commit the offenses  
21 as charged?

22 THE DEFENDANT: Yes.

23 THE COURT: What would be the government's proof  
24 here, Mr. Trabold?

25 MR. TRABOLD: Your Honor, on April 17th to April

1 18th of 2003, the Pennsylvania State Police executed a search  
2 warrant at Maurice Foley's residence on Hill Road in  
3 Saegertown, Pennsylvania. That information gleaned from that  
4 search, coupled with source information, indicated to the  
5 government that Mr. Artello was involved in the Maurice Foley  
6 drug enterprise. One of the primary things that led the  
7 government to that conclusion was ledger books and owe sheets  
8 were discovered with the notation Fat Man on them. That the  
9 government was able to determine that Fat Man and/or Tattoo was  
10 in fact Jeffrey Artello.

11 Subsequent to that search in April, the government  
12 executed a search warrant on Mr. Artello's residence on August  
13 7th of 2003. The search of Mr. Artello's residence resulted in  
14 the seizure of the weapons listed in Count Five of the  
15 Indictment. And Mr. Artello was in possession of those weapons  
16 at a time when he had a previous qualifying felony, federal  
17 felony convictions, actually a state misdemeanor conviction.

18 Beyond that information, your Honor, there are a  
19 number of cooperating witnesses in this case that indicated  
20 that they're aware of Mr. Artello's involvement in this  
21 conspiracy.

22           Additionally, Mr. Artello was interviewed around the  
23   time his home was searched and revealed that after Maurice  
24   Foley's home was searched in April of 2003, he was contacted by  
25   Mr. Foley, and Mr. Foley asked him if he would be willing to

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1   take some of Mr. Foley's personal property and store it at Mr.  
2   Artello's house. Mr. Artello agreed to do that.  
3           One of the things that was brought to Mr. Artello's  
4   residence was a safe, which was brought to Mr. Artello's  
5   residence by John Kirkpatrick, who was known by the nickname  
6   Hat or Hat Rack. Mr. Kirkpatrick brought the safe to Mr.  
7   Artello's house, and at various points in time while it was  
8   there, gained access to the safe because he knew the  
9   combination. When Mr. Artello was interviewed, he revealed  
10   that this safe had been brought to his house and that he had  
11   stored it for a period of time.

12           He also revealed that he had, because he was worried  
13   about having it there and because the safe was giving off a  
14   strong odor of marijuana, he had removed the safe from his  
15   property and discarded it into a wooded area not far from his

16 residence.

17 He led authorities to that safe. There was a search  
18 warrant executed on that safe. That search warrant resulted in  
19 the seizure of approximately 30 pounds of marijuana.

20 Beyond all that, the government seized letters from  
21 Maurice Foley to Mr. Artello during the course of the search of  
22 Mr. Artello's residence. The letters could only be  
23 characterized as highly incriminating because Mr. Foley reveals  
24 in the letters that the safe is going to be brought to Mr.  
25 Artello's house by Hat Rack. Mr. Foley somewhat less than

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1 cryptically refers to the safe as A heavy thing with numbers.

2 Mr. Foley in the letters also reveals that he was in  
3 possession of a .44 pistol which he had shot on numerous  
4 occasions, but could not be traced to him through fingerprints,  
5 simply because he had worn gloves during the course of the  
6 shooting of the weapon.

7 There are also multiple indications throughout the  
8 course of the letters between Mr. Foley and Mr. Artello that  
9 Mr. Foley had provided to Mr. Artello something Mr. Foley

10 refers to as doo-doo, which we now know to be methamphetamine.

11 There are indications throughout the letters that Mr. Foley was  
12 receiving through the mail or FedEx, packages of  
13 methamphetamine.

14 Beyond that, Mr. Artello was debriefed along the  
15 lines of his cooperation in this case. Obviously, he had  
16 debriefing sessions which could not be used in our case in  
17 chief. But Mr. Artello has revealed numerous details about his  
18 involvement in this case. Things such as Mr. Foley's storing  
19 of hundreds of pounds of marijuana at his residence on a  
20 temporary basis.

21 He also revealed to the government that he  
22 personally witnessed Mr. Foley storing extremely large amounts  
23 of money, hiding that money inside a dashboard, or not a  
24 dashboard, windshield wiper components inside a vehicle.  
25 There's a whole host of other pieces of information that Mr.

1 Artello has revealed about the involvement of other people in  
2 this conspiracy. Primarily John Kirkpatrick, and having  
3 received marijuana and/or paying John Kirkpatrick for marijuana

4 in the past. Thank you.

5 THE COURT: Mr. Artello, you just heard what Mr.

6 Trabold said by way of summary, do you agree with everything he

7 said?

8 THE DEFENDANT: Yes.

9 THE COURT: Because you acknowledge that you are in

10 fact guilty as charged in Counts One and Five and because you

11 know about your right to a trial, because you know what the

12 maximum possible penalty is and because you are voluntarily

13 pleading guilty, I will accept your guilty plea and enter a

14 judgment of guilty on your plea to Counts One and Five of

15 Indictment No. 04-36 Erie.

16 It is, therefore, the finding of the court in the

17 case of United States v. Jeffrey Scott Artello, that this

18 defendant is fully competent and capable of entering an

19 informed plea, and that his plea of guilty is a knowing and

20 voluntary plea supported by an independent basis in fact

21 containing each of the essential elements thereof and,

22 therefore, the plea is accepted and the defendant is now

23 adjudged guilty of the charges contained in Counts One and

24 Five. Would you please, Mr. Patton, have your client and

25 yourself sign the change of plea.

1 (Whereupon, the Change of Plea was executed by the  
2 Defendant and Defense Counsel.)

3 THE COURT: Sentencing will be May 2nd at 10 a.m.

4 A presentence investigation report is going to be prepared in  
5 this case, Mr. Artello, it is in your best interests to  
6 cooperate with the probation officer in furnishing information  
7 for that report, because that report is going to be very  
8 important in my decision about what your sentence is going to  
9 be. You and your counsel will have the opportunity and the  
10 right to examine the report and make any objections that you  
11 think are appropriate. As I indicated before, the sentencing  
12 is set for May 2nd at 10 a.m.

13 What's the present status on bond, does the  
14 government have any objection?

15 MR. TRABOLD: The prosecution has no objection to it  
16 continuing.

17 THE COURT: All right. We're adjourned.

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19 (Whereupon, at 9:25 a.m., the Plea proceedings were



20 concluded.)

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1 CERTIFICATE

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4 I, Ronald J. Bench, certify that the foregoing is a

5 correct transcript from the record of proceedings in the

6 above-entitled matter.

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11 Ronald J. Bench

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